

96TH CONGRESS
1ST SESSION

H. R. 1068

To amend the National Security Act of 1947, as amended, to protect foreign intelligence information from unauthorized disclosure.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 1979

Mr. McCLOBY introduced the following bill; which was referred to the Permanent Select Committee on Intelligence

A BILL

To amend the National Security Act of 1947, as amended, to protect foreign intelligence information from unauthorized disclosure.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Foreign Intelligence In-
4 formation Protection Act of 1979".

5 STATEMENT OF FINDINGS

6 SEC. 2. The Congress hereby makes the following
7 findings:

I—E

1 (a) Foreign powers are constantly attempting,
2 through various means, to obtain information relating
3 to the Nation's security in order to cause damage to
4 the United States and to advance their own interests.

5 (b) While recognizing the public's interest in
6 access to Government information, certain information
7 which relates to the Nation's security must be protect-
8 ed from unauthorized disclosure.

9 (c) Certain matters are so highly sensitive that
10 any public discussion of them is inimical to the national
11 security.

12 (d) Existing laws do not adequately protect na-
13 tional security information from unauthorized disclo-
14 sure.

15 SEC. 3. (a) The National Security Act of 1947, as
16 amended, is amended by adding at the end thereof the follow-
17 ing new title:

18 "TITLE V—PROTECTION OF FOREIGN
19 INTELLIGENCE INFORMATION

20 "DESIGNATION OF SENSITIVE INTELLIGENCE
21 INFORMATION

22 "SEC. 501. (a) The Director of Central Intelligence is
23 authorized to designate information as sensitive intelligence
24 information and to remove such designation. Pursuant to this
25 authority he shall—

3

1 “(1) delegate this authority to other officials of
2 the United States who the Director determines have a
3 significant need to exercise such authority; and

4 “(2) in consultation with other departments and
5 agencies of the United States, develop and issue regu-
6 lations for the implementation of this authority.

7 “(b) The designation of information as sensitive intelli-
8 gence information may only be removed—

9 “(1) by the Director of Central Intelligence or
10 those to whom he has delegated such authority pursu-
11 ant to subsection (a)(1); or

12 “(2) by action taken pursuant to the Rules of the
13 Senate or House of Representatives.

14 “ESPIONAGE

15 “SEC. 502. (a) OFFENSE.—A person is guilty of an of-
16 fense if, without authority, he knowingly acts to—

17 “(1) communicate classified information to a for-
18 eign power; or

19 “(2) obtain or collect classified information on
20 behalf of a foreign power.

21 “(b) PENALTY.—An offense described in this section is
22 punishable by a fine of not more than \$20,000 or imprison-
23 ment for the duration of the defendant's life or any period of
24 time, or both.

1 “UNAUTHORIZED DISCLOSURE OF SENSITIVE
2 INTELLIGENCE INFORMATION

3 “SEC. 503. (a) OFFENSE.—A person is guilty of an of-
4 fense if, having or having had lawful access to sensitive intel-
5 ligence information, he knowingly acts to disclose such infor-
6 mation without authority.

7 “(b) PENALTY.—An offense described in this section is
8 punishable by a fine of not more than \$10,000 or imprison-
9 ment for not more than twenty years, or both.

10 “UNAUTHORIZED DISCLOSURE OF CLASSIFIED
11 INFORMATION

12 “SEC. 504. (a) OFFENSE.—A person is guilty of an of-
13 fense if, having or having had lawful access to information
14 properly designated as classified information, he knowingly
15 acts to disclose such information without authority.

16 “(b) PENALTY.—An offense described in this section is
17 punishable by a fine of not more than \$10,000 or imprison-
18 ment for not more than ten years, or both.

19 “UNAUTHORIZED DISCLOSURE OF THE IDENTITIES OF
20 CERTAIN INDIVIDUALS

21 “SEC. 505. (a) OFFENSE.—A person is guilty of an of-
22 fense if, without authority, he knowingly acts to disclose clas-
23 sified information which identifies or could lead to the identi-
24 ty of any individual or entity as being or having been associ-
25 ated with an agency of the United States engaged in foreign

5

1 intelligence or foreign counterintelligence activities where
2 such disclosure could prejudice the life or physical safety of
3 the individual or entity identified.

4 “(b) PENALTY.—An offense described in this section is
5 punishable by a fine of not more than \$5,000 or imprison-
6 ment for not more than five years, or both.

7 “PROSECUTION

8 “SEC. 506. (a) An indictment may only be returned or
9 an information filed for an offense under section 502 of this
10 title if the Attorney General and the Director of Central In-
11 telligence certify in writing to the court with appropriate ju-
12 risdiction that at the time of the commission of the offense
13 the information the defendant is charged with disclosing was
14 properly designated as classified information.

15 “(b) An indictment may only be returned or an informa-
16 tion filed for an offense under section 503 of this title if the
17 Attorney General and the Director of Central Intelligence
18 certify in writing to the court with appropriate jurisdiction
19 that at the time of the commission of the offense the informa-
20 tion the defendant is charged with disclosing was properly
21 designated as sensitive intelligence information.

22 “JURISDICTION

23 “SEC. 507. There is Federal jurisdiction over an offense
24 established by this title if the offense is committed in the
25 United States or if the person who committed the offense is a

1 citizen of the United States or an alien lawfully admitted for
2 permanent residence (as defined in section 101(a)(20) of the
3 Immigration and Nationality Act).

4 "DEFINITIONS

5 "SEC. 508. As used in this title:

6 "(a) 'Authority' means at the direction of the President
7 or pursuant to a statute or an Executive order, or a regula-
8 tion, rule, or order issued pursuant thereto, or pursuant to a
9 lawful demand by a regularly constituted standing or select
10 subcommittee, committee, or joint committee of Congress.

11 "(b) 'Classified information' means any information that
12 is designated and clearly marked or represented pursuant to
13 the provisions of a statute or an Executive order, or a regula-
14 tion or rule issued pursuant thereto, as information requiring
15 a specific degree of protection against unauthorized disclo-
16 sure for reasons of national security, or information derived
17 therefrom.

18 "(c) 'Communicate' means to impart, transfer, convey,
19 or otherwise make available to another.

20 "(d) 'Disclose' means to communicate or publish.

21 "(e) 'Foreign power' means—

22 "(1) a foreign government or any component
23 thereof, whether or not recognized by the United
24 States;

1 “(2) a faction of a foreign nation or nations, not
2 substantially composed of United States persons;

3 “(3) a group engaged in international terrorism or
4 activities in preparation therefor;

5 “(4) a foreign-based political organization, not
6 substantially composed of United States persons;

7 “(5) an entity that is directed and controlled by a
8 foreign government or governments; or

9 “(6) anyone acting on behalf of (1) through (5),
10 above.

11 “(f) ‘Knowingly acts’ means to act with knowledge or
12 reason to know of all of the elements of the offense.

13 “(g) ‘Lawful access’ means receipt, possession, or con-
14 trol of classified information—

15 “(1) as a result of being an officer, employee, or
16 consultant of the United States, a member of the uni-
17 formed services of the United States, a contractor of
18 the United States Government or an employee of a
19 consultant or contractor of the United States Govern-
20 ment; or

21 “(2) otherwise pursuant to a statute or an Execu-
22 tive order, or regulation, rule, or order issued pursuant
23 thereto.

24 “(h) ‘Sensitive intelligence information’ means classified
25 information which is designated and clearly marked or repre-

1 sented as sensitive intelligence information because it relates
2 to one or more of the following categories:

3 “(1) a method of collecting foreign intelligence in-
4 formation where such disclosure would allow a foreign
5 power to—

6 “(A) take protective measures to prevent fur-
7 ther effective use of such method; or

8 “(B) develop or enhance its own intelligence
9 collection method by making use of the informa-
10 tion disclosed;

11 “(2) a source of foreign intelligence, whether
12 human, technical, or other;

13 “(3) a method of exploitation, analysis, or evalua-
14 tion of foreign intelligence information where such dis-
15 closure would allow a foreign power to—

16 “(A) take protective measures to prevent fur-
17 ther effective use of such method; or

18 “(B) develop or enhance its own method of
19 exploitation analysis, or evaluation of intelligence
20 information by making use of the information
21 disclosed;

22 “(4) a method of defense against the intelligence
23 activities of foreign powers; or

24 “(5) the identity or information which could lead
25 to the identity of any individual or entity as being or

1 having been associated with an agency of the United
2 States engaged in foreign intelligence or foreign coun-
3 terintelligence activities.”.

4 (b) The table of contents at the beginning of the Na-
5 tional Security Act of 1947, as amended, is amended by
6 adding at the end thereof the following:

“TITLE V—PROTECTION OF FOREIGN INTELLIGENCE INFORMATION

"Sec. 501. Designation of sensitive intelligence information.

"Sec. 502. Espionage.

"Sec. 503. Unauthorized disclosure of sensitive intelligence information.

"Sec. 504. Unauthorized disclosure of classified information.

"Sec. 505. Unauthorized disclosure of the identities of certain individuals.

“Sec. 506. Prosecution.

"Sec. 507. Jurisdiction.

"Sec. 508. Definitions."

EFFECTIVE DATE

8 SEC. 4. The provisions of this Act shall become effective
9 ninety days after the date of enactment.

